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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ELECTRICAL WORKERS PENSION FUND,)
LOCAL 103, I.B.E.W., On Behalf of Itself and)
All Others Similarly Situated,)

Plaintiff,)

vs.)

NUVELO, INC., et al.,)

Defendants.)

No. 3:07-cv-04056-MMJ

CLASS ACTION

REPLY IN SUPPORT OF MOTIONS FOR
CONSOLIDATION AND APPOINTMENT
OF LEAD PLAINTIFF AND APPROVAL
OF LEAD PLAINTIFF'S SELECTIONS OF
COUNSEL

Lead plaintiff movants Juan Pablo Cabrera (“Cabrera”), Frank C. and Patricia A. Petronis (“Petronis”), and Todd A. and Amy A. Stephens (“Stephens”) hereby submit this reply in support of their respective motions to consolidate four related actions filed against defendant Nuvelo, Inc. and certain of its officers, appoint a lead plaintiff pursuant to the Private Securities Litigation Reform Act, 15 U.S.C. §§78u-4(a)(3)(B)(ii), and approve their selection of counsel to prosecute their claims for securities fraud on behalf of themselves and a proposed class of investors in Nuvelo securities.

Three separate motions for consolidation of the actions, appointment of lead plaintiff, and approval of the selection of counsel were filed with the Court. No objections were filed to any of those motions. However, after reviewing each other’s motions, Cabrera, Petronis and Stephens – each of whom had sustained losses in excess of \$500,000 as result of their class period transactions in Nuvelo stock and/or stock options – decided to band together and seek approval to jointly prosecute the action on behalf of the class. *See In re Able Labs. Sec. Litig.*, 425 F. Supp. 2d 562, 570 (D.N.J. 2006) (finding it appropriate for two movants who initially filed separate motions for lead plaintiff to subsequently seek appointment as co-lead plaintiffs); *see also Montoya v. Mamma.com, Inc.*, No. 05 Civ. 2313 (HB), 2005 U.S. Dist. LEXIS 10224, at *5 (S.D.N.Y. May 31, 2005) (same).

These investors suffered a combined loss of \$2,389,406, providing them with the greatest financial interest in the litigation of anyone filing a complaint or making a motion to serve as lead plaintiff:

Cabrera:	\$ 1,011,788 ¹
Petronis:	\$ 832,765
Stephens:	<u>\$ 544,853</u>
Total:	<u>\$ 2,389,406</u>

¹ Following submission of his original motion, it was brought to Cabrera’s attention that the brokerage print outs attached to his original lead plaintiff certification had inadvertently included duplicate entries for some of his transactions due to an undetected computer error of unknown origin. Cabrera has since obtained corrected copies of his brokerage statements, and a corrected version of his lead plaintiff certification is attached hereto as Exhibit A. It is well settled that immaterial clerical errors do not defeat lead plaintiff applications. *See, e.g., In re Sepracor, Inc.*, 233 F.R.D. 52, 56-57 (D. Mass. 2005); *In re Lucent Tech. Inc. Sec. Litig.*, 194 F.R.D. 137, 143, n.7 (D.N.J. 2000); *In re MicroStrategy Inc., Sec. Litig.*, 110 F. Supp. 2d 427, 438 (E.D. Va. 2000).

1 The two remaining movants who had suffered much smaller losses – The Lidard Group
 2 (“Lidard”), with claimed losses of \$238,419, and Vincent and Candace DiFrancia (“DiFrancia”),
 3 with losses of \$23,343 – agreed to withdraw their motions for appointment as lead plaintiff without
 4 prejudice to their respective rights as members of the proposed class.²

5 The Court was advised of these agreements in a consolidated response to the pending lead
 6 plaintiff motions filed by all the original moving investors (Cabrera, Petronis, Stephens, Lidard &
 7 DiFrancia), together with a revised proposed order reflecting their agreement to appoint Cabrera,
 8 Petronis and Stephens to represent the class. *See Consolidated Response to Pending Motions of All*
 9 *Lead Plaintiff Applicants Regarding the Appointment of Lead Plaintiffs and Co-Lead Counsel, and*
 10 *the [Proposed] Order Consolidating Related Actions, Appointing Juan Pablo Cabera, Frank C. and*
 11 *Patricia A. Petronis and Todd A. Stephens and Amy Stephens as Lead Plaintiffs and Approving*
 12 *Their Choice of Counsel as Co-Lead Counsel (“Proposed Order”), filed on September 11, 2007. As*
 13 *no objections to the appointment of these investors or their selection of lead counsel, or to*
 14 *consolidation, has been submitted, and as it is undisputed that each of the remaining movants has a*
 15 *significant financial interest in the outcome of this proceeding, the Court should enter the Proposed*
 16 *Order appointing Cabrera, Petronis and Stephens as lead plaintiffs and approving their selection of*
 17 *Berger & Montague, P.C. and Schatz Nobel Izard, P.C. as co-lead counsel and Coughlin Stoia Geller*
 18 *Rudman & Robbins LLP as liaison counsel.*

19 DATED: September 18, 2007

COUGHLIN STOIA GELLER
 RUDMAN & ROBBINS LLP
 DENNIS J. HERMAN

22 s/ Dennis J. Herman
 23 DENNIS J. HERMAN

26 ² DiFrancia originally moved for appointment as lead plaintiff together with Petronis and
 27 Stephens.

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23 [Proposed] Co-Lead Counsel for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 18, 2007.

s/ Dennis J. Herman
DENNIS J. HERMAN

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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